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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------|-------------|----------------------|---------------------|------------------|
| 09/945,445 | 08/31/2001 | Ian Moir | 085710.P052 | 3570 |
| 7812 | 7590 | 01/07/2005 | | |
| SMITH-HILL AND BEDELL | | | EXAMINER | |
| 12670 N W BARNES ROAD | | | STRANGE, AARON N | |
| SUITE 104 | | | | |
| PORLAND, OR 97229 | | | ART UNIT | PAPER NUMBER |
| | | | 2153 | |

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------|---------------------|--|
| Office Action Summary | Applicant No. | Applicant(s) | |
| | 09/945,445 | MOIR, IAN | |
| | Examiner Aaron Strange | Art Unit 2153 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 April 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-52 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-52 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 August 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>01292003, 04172002, 01092002</u> | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Item number 113, as disclosed on Page 7, Line 8 of the present application, is not present in the drawing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 19,20,44,45 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 19 recites the limitation "the network management traffic" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear what Applicant intends this limitation to be.

5. Claim 19 recites the limitation "the network management policy" in line 3. There is insufficient antecedent basis for this limitation in the claim. It appears that Applicant may have intended to refer to "the network traffic management policy" recited in claim 1, and it has been interpreted as such.

6. With regard to claim 20, the limitation "the network traffic" is unclear. It is unclear if Applicant intends to refer to the "network management traffic" recited in line 2 of claim 19 or the "network traffic" recited in lines 4-5 of claim 1. It appears that Applicant intends to refer to the "network management traffic" recited in claim 19, and it has been interpreted as such.

7. Claims 44 and 45 contain similar recitations to those of claims 19 and 20, and the above rejection fully applies to those claims.

8. Claim 52 recites the limitation "The machine-readable medium" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1,2,6-9,12,14-18,21-25,26,27,31-34,39-43, and 46-52 are rejected under 35 U.S.C. 102(e) as being anticipated by McGlohrrie et al. (US 6,286,052).

11. With regard to claim 1, McGlohrrie discloses a method to implement policy-based network traffic management, the method including: receiving first data pertaining to a network device at a network traffic manager (Policy enforcer receives APD messages (Col 10, Lines 62-65), containing parameters regarding device (Col 5, Lines 3-9), the first data being received out-of-band of network traffic (dedicated connection for APD messages)(Col 10, Lines 62-65); extracting second data from the network traffic (source/destination IP)(Col 16, Lines 25-33); and implementing a network traffic management policy at the network traffic manager utilizing the first and second data (policy is enforced)(Col 16, Lines 38-40).

12. With regard to claim 2, McGlohrrie further discloses that the first data is associated with the network traffic by being communicated to the network traffic manager out-of-band during a keep-alive session pertaining to the network traffic (Col 12, Lines 25-29).

13. With regard to claim 6, McGlohrrie further discloses that the first data comprises data concerning network access requirements of the network device (anticipated traffic flow) (Col 7, Lines 38-51).

14. With regard to claim 7, McGlohrrie further discloses that the network access requirements are of an application executing on the network device (application program specifies the anticipated traffic flows)(Col 7, Lines 38-51).

15. With regard to claim 8, McGlohrrie further discloses that the first data is received from a client application executing on the network device (flow declaration component) (Col 7, Lines 38-51).

16. With regard to claim 9, McGlohrrie further discloses that the first data includes an information profile concerning the network device (device and application parameters) (Col 5, Lines 3-8).

17. With regard to claim 12, McGlohrrie further discloses that the first data is communicated on a periodic basis from the network device (Changes is parameters are sent periodically) (Col 18, Lines 26-41) as part of a keep-alive protocol (APD messages are part of keep-alive protocol) (Col 17, Lines 13-22).

18. With regard to claim 14, McGlohrrie further discloses that the second data extracted from the network traffic is identified by a classification rule accessed by the network traffic manager (Col 16, Lines 25-33).

19. With regard to claim 15, McGlohrrie further discloses that the second data is extracted from any one of a group of network traffic types including a packet, a cell and a frame (Col 16, Lines 25-27).